

11 APRIL 1947

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of  
WITNESSES

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11 APRIL 1947

I N D E X  
of  
EXHIBITS

<u>Doc.</u>	<u>Def.</u>	<u>Pres.</u>	<u>Description</u>	<u>For</u>	<u>In</u>
<u>No.</u>	<u>No.</u>	<u>No.</u>		<u>Ident.</u>	<u>Evidence</u>
989	2435		Affidavit of MINAMI, Jiro		19774
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1 Friday, 11 April 1947  
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INTERNATIONAL MILITARY TRIBUNAL  
FOR THE FAR EAST  
Court House of the Tribunal  
War Ministry Building  
Tokyo, Japan

The Tribunal met, pursuant to adjournment,  
at 0930.

Appearances:

For the Tribunal, same as before.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese  
to English interpretation was made by the  
Language Section, IMTTFE.)

D 1                    MARSHAL OF THE COURT: The International  
u 2                    Military Tribunal for the Far East is now in session.  
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THE PRESIDENT: All the accused are present  
except the accused TOGO who the prison surgeon of  
Sugamo certifies is unable to attend the trial today  
through illness. The certificate will be recorded and  
filed.

Colonel Warren.

MR. WARREN: If the Tribunal please, the  
ruling of the Tribunal yesterday with reference to the  
testimony of the accused raises two very serious ques-  
tions in the minds of defense counsel.

1. The question raised by Mr. Brooks as to  
whether or not an accused called to testify as a wit-  
ness for another one of the accused and not on his  
own behalf would be subject to the ruling and be re-  
quired to give his entire testimony at that time.

2. If an accused takes the witness stand  
in his individual case, will he, under the rule, be  
precluded from offering rebuttal testimony at a later  
time in his own defense? It may not be that the Tri-  
bunal intended the rule to cover such a contingency but  
as the rule now stands, and as we interpret it, such  
would be the case.

I shall argue these two points and put them

as succinctly as possible. With reference to the  
1 first proposition, if an accused is placed on the wit-  
2 ness stand at this time, he could not be recalled at  
3 a later time to testify in behalf of another accused.  
4 Consequently, it would become necessary to elicit  
5 from such witness all the testimony which each of the  
6 other accused deem to be pertinent to their individual  
7 case and within the purview of the knowledge of the  
8 accused then occupying the witness stand. It goes  
9 without saying that in many instances prior testimony  
10 concerning the points sought to be proven would not  
11 be in evidence and could not at such time be relevant,  
12 and would, therefore, be incompetent. It would be nec-  
13 essary to base the questioning of the witness upon facts  
14 not yet in evidence, the relevancy of which the Tribunal  
15 would have had no opportunity to consider. It is at  
16 once apparent that if an accused were called to testi-  
17 fy on one of the phases of the case, or on behalf of  
18 an individual accused, that much evidence, not then  
19 before the Tribunal, and with which the witness had  
20 not been confronted, would be introduced at a later  
21 time by another accused, much of which might be detri-  
22 mental if not explained. In many instances defense  
23 counsel feel that only the accused themselves could  
24 explain or testify in rebuttal.

1                   Accused would be reluctant, and I am certain  
2                   counsel would not only be reluctant but would be ex-  
3                   tremely careful in permitting the use of any accused  
4                   under such circumstances, and we feel, if an accused  
5                   may not be called to testify on behalf of another  
6                   accused unless he be required to give his entire tes-  
7                   timony at that time, irreparable damage may be done to  
8                   an accused who feels that his testimony is necessary.  
9                   Any accused and his counsel would be perfectly justi-  
10                  fied in refusing to permit his testimony under such  
11                  circumstances.

12                  With reference to the second point, we are  
13                  confronted with the situation whereby all of the ac-  
14                  cused except the last will be required to testify with  
15                  no opportunity of rebutting the evidence of the testi-  
16                  mony of the accused who succeeds him to the stand.  
17                  This trial is, of course, not a joint trial where all  
18                  accused are charged with the same offenses, but is a  
19                  common trial where they are not all charged jointly  
20                  with each count in the Indictment. There is a diver-  
21                  sity of interest, and, in all likelihood, testimony  
22                  by one accused may be inimical to the defense of others.  
23                  Under the present rule no opportunity is afforded to  
24                  permit any accused to personally rebut the testimony  
25                  introduced against him, both by the testimony of the

1           succeeding accused or by documentary evidence or evi-  
2           dence of other witnesses. For example, the defense  
3           counsel have tentatively agreed among themselves that  
4           the accused would present their individual cases in  
5           alphabetical order. One of the accused that I repre-  
6           sent would be number two on the list and the other  
7           would be number five. It goes without saying that I  
8           should be most reluctant to proceed under the circum-  
9           stances and I feel certain that other counsel would  
10           feel likewise, with the result that each counsel would  
11           attempt to reserve the testimony of the accused whom  
12           he represents for so long as is possible under the  
13           present ruling.

14           We therefore request the Tribunal to seriously  
15           consider these two matters which we did not call to its  
16           attention yesterday before the ruling was made.

17           We sincerely feel that if the rule is to be  
18           invoked against an accused testifying on behalf of  
19           another accused, or that an accused may not be given  
20           the privilege of personal rebuttal testimony that it  
21           will not only cause confusion among the defense coun-  
22           sel, with consequent delaying of the orderly procedure  
23           of this trial, but would also deprive the accused of a  
24           fair trial.

25           Thank you.

1 MR. BLEWETT: If the Court please, we shall  
2 no doubt call General TOJO only in the individual phase  
3 of the defense. However, we feel that he is ready at  
4 any time to answer any question on cross-examination,  
5 that is, unless the prosecution has already exhausted  
6 its inquiry in the numerous interrogations already taken.

7           We feel, sirs, that if subpoenaed by counsel  
8 for one of the other accused, he might feel that as a  
9 friendly gesture he would like to come in and testify on  
10 his behalf. We do not feel that it would go to the  
11 orderly process of the trial if he were compelled to  
12 put on his entire defense at that time.

13 I should like to call the attention of the  
14 Tribunal to the fact that General TOJO has already been  
15 called twenty-one times by the prosecution.

16 THE PRESIDENT: We cannot let you say that  
17 without contradiction.

18 MR. BLEWETT: And this testimony, sir, covers a  
19 period from exhibit 1110 to exhibit 1984, covering  
20 various phases.

21 THE PRESIDENT: Statements alleged to have  
22 been made by the accused TOJO have been given in evidence  
23 by the prosecution. That is all. Such a thing happens  
24 in most criminal trials.

MR. BLEWETT: It seems to us, sir, that a

1 modification of the rule, if the rule is to prevail,  
2 might be, with your Honors' indulgence, that when an  
3 accused is called by other than his own counsel, the  
4 cross-examination should be limited to that direct  
5 examination; and that when the accused is called by his  
6 own counsel for his full defense, that the cross-  
7 examination be unlimited, to cover the full scope.

8 THE PRESIDENT: Mr. Tavenner.

9 MR. TAVENNER: If it please the Tribunal,  
10 we submit that there is a simple and practical answer  
11 to both of the questions presented by counsel.

12 The first question related to the right of  
13 counsel for one accused to call another accused as a  
14 witness. Matters relating to the order of proof are  
15 certainly within the sound discretion of the Tribunal.

16 THE PRESIDENT: The defense do not question  
17 that. The only question is what is necessary for a  
18 fair trial.

19 MR. TAVENNER: It has been indicated that the  
20 accused will be called in their own behalf at one stage  
21 of this case. When the accused is so called, certainly  
22 the Tribunal will use its discretion in determining  
23 the extent to which another accused may question him.  
24 That will certainly enable counsel for each accused to  
25 exhaust whatever right they may have to cross-examine

1 or to examine in chief any one accused. This pro-  
2 cedure would give every accused a fair opportunity to  
3 exhaust whatever right he desired to assert, and would  
4 avoid all the complicated questions that counsel are  
5 now raising. We think that is a plain and practical  
6 suggestion for the handling of the matter.

7 I just heard the statement that that is on  
8 the assumption that all the accused take the stand.  
9 I take it that an accused cannot be compelled to take  
10 the stand even as a witness for one of the accused  
11 without his consent, except in the situation mentioned  
12 in the Charter. I think these are all practical  
13 matters which will solve themselves if they are  
14 handled in the normal and usual way, but that many  
15 complications may be expected to arise if the Tribunal  
16 changes its order in any particular that it issued  
17 yesterday.

18 It will only be human and natural that an  
19 accused, having taken the stand once, would like to  
20 come back again and mend his holes here or there or add  
21 to what has already been said. For the sake of orderly  
22 procedure and in absolute justice and fairness to each  
23 of the accused, it would seem that the only practical  
24 and plausible way to handle this situation is just as  
25 the Tribunal ruled yesterday.

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1 As to the second point of rebuttal, that  
2 question would not arise in any serious manner if  
3 the procedure is followed that was just suggested.  
4 An accused having once taken the stand and his testi-  
5 mony having been exhausted, both by his own counsel  
6 and by that of other counsel under the discretion of  
7 the Court, certainly the rules relating to rebuttal  
8 testimony would be the same as to any other witness or  
9 any other phase of the case.

10 We submit that no complicated situation  
11 will arise if that procedure is followed but the  
12 Tribunal will recognize at once the complicated ques-  
13 tions that will arise if an accused is presented now  
14 prematurely as a witness for another accused because  
15 he can only take the stand voluntarily and when he  
16 does appear as a voluntary witness he subjects himself  
17 to cross-examination, your Honor, on any phase of his  
18 participation in the offense charged. That is our  
19 submission, your Honor.

20 MR. WARREN: May I be permitted rebuttal?

21 If the Tribunal please, I recall the argument  
22 advanced by prosecution with reference to the witness  
23 TANAKA whom we would have loved to have had at one time  
24 to cross-examine. It is strange that they should now  
25 reverse their position except that it appears they

1 decide that they want just one more advantage. Of  
2 course, I must assume that this Tribunal knows some  
3 evidence, that this Tribunal knows some procedure,  
4 and for the prosecution to say that to proceed in  
5 this manner is the ordinary manner, to me, is the  
6 height of absurdity. We recognize--

7 THE PRESIDENT: It is not the ordinary  
8 manner but perhaps there could be a departure.

9 MR. WARREN: Yes, sir. We recognize, your  
10 Honor, there must be some departure in a case of  
11 this kind but also we submit that there is no rule  
12 that has been known to us presently that would not  
13 permit us to subpoena, if your Honor please, one of the  
14 accused and call him as a witness to the witness stand  
15 nor is there anything in the Charter to the contrary  
16 if we would subpoena him and he were an unwilling  
17 witness, then he could stand upon his rights of self-  
18 incrimination when he took the stand. We submit, your  
19 Honor, the question is not a simple question other-  
20 wise we should not have raised it here this morning.  
21 It is a question that to us is serious and the prose-  
22 cution does not know our problems. I am sure that the  
23 Tribunal knows far more about our problems than they  
24 do. If we proceeded under the present rule I assure  
25 your Honor that I would hesitate for a great length of

1 time and consider it seriously before I would ever  
2 put one of the accused on the stand, despite the  
3 fact that the prosecution could then comment on it.  
4 We submit, your Honor, that our reasons are so plain  
5 and that they need no further argument. I thank you,  
6 sir.

7 THE PRESIDENT: The question is a very  
8 serious one but after argument on two motions at  
9 Nuernberg they came to the following conclusion.  
10 Apparently the decision at Nuernberg worked out well  
11 in practice. I have heard no criticism of it, at  
12 all events. The decision was given on the 11th of  
13 February, 1946. These are the relevant parts:

14 A defendant can testify once only. A  
15 defendant who wishes to testify on his own behalf  
16 shall do so during the presentation of his own defense.  
17 The right of defense counsel and of the prosecution  
18 to interrogate and cross-examine a defendant who  
19 gives testimony shall be exercised at that time. A  
20 defendant who does not wish to testify on his own  
21 behalf but who is willing to testify on behalf of a  
22 co-defendant may do so during the presentation of the  
23 case of the co-defendant. Counsel for other co-defend-  
24 ants and for the prosecution shall examine and cross-  
25 examine him when he has concluded his testimony on

1 behalf of the co-defendant. This does not limit the  
2 power of the Tribunal to allow a defendant to be re-  
3 called for further testimony in exceptional cases if  
4 in the opinion of the Tribunal the interest of justice  
5 so requires.

6 MR. CUNNINGHAM: May I say just a word?

7 THE PRESIDENT: It is a pity you did not  
8 speak before Mr. Tavenner, Mr. Cunningham, but as a  
9 matter of grace we will permit you to speak.

10 MR. CUNNINGHAM: The matter had not arisen  
11 before that I wish to speak on now.

12 THE PRESIDENT: Yes.

13 MR. CUNNINGHAM: I called attention the  
14 other day to the difference in this case and that  
15 of Nuernberg. In Nuernberg they did not present the  
16 defense in phases and this question did not arise  
17 especially there.

18 THE PRESIDENT: But there are such things as  
19 distinctions without differences; this is one perhaps.  
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1 MR. CUNNINGHAM: It seems to me, your  
2 Honor, that in this instance there could be some  
3 compromise on the matter which would alleviate the  
4 difficulty which has arisen concerning the pre-  
5 sentation of the testimony of the accused in relation  
6 to the particular questions arising in the phases and  
7 in the testimony which the accused would give in  
8 behalf of the individual defendants. Now, the  
9 compromise which I had proposed and which goes to  
10 orderly procedure would be to permit the testimony  
11 of the accused to be introduced either in affidavit  
12 or personal testimony in its regular order, and  
13 then, perhaps, the prosecution call the accused or  
14 have the accused for cross-examination on all of  
15 his testimony at the one time he is called, but  
16 permit the defense to introduce their testimony in  
17 one form or other in its orderly time and where it  
18 fits chronologically into the picture of the phase of  
19 the case. Surely, your Honor, there must be some  
20 compromise that we can arrive at to accomplish both  
21 objectives: one to present the matters in an orderly  
22 procedure, and the other, to accomplish the object  
23 which the Court and the prosecution are seeking to  
24 accomplish.

25 THE PRESIDENT: Captain Brooks.

1                   MR. BROOKS: If your Honor please, I do not  
2 wish to add very much except that I understand that  
3 the rule at Nuernberg was waived in the case of  
4 Goering. They were allowed the right to rebut on  
5 new testimony.

6                   THE PRESIDENT: I remind you of the last  
7 provision in the Nuernberg decision. The decision  
8 did not limit the power of the Tribunal to allow  
9 a defendant to be recalled for further testimony in  
10 exceptional cases. After much consideration Goering  
11 was recalled under that provision on a single point,  
12 and his evidence took only a few minutes. I do not  
13 say that one defendant cannot be recalled to rebut  
14 another, but it is most exceptional and has not  
15 occurred in my experience, but I have no doubt it  
16 could be done in the interest of justice. But care  
17 will have to be exercised in giving such a right  
18 because you would never know where the case would  
19 end, otherwise.

20                  MR. BROOKS: Of course, your Honor, in our  
21 phase we would like to have the same advantage that  
22 the prosecution had of using such evidence as is  
23 material in that part of the phase to all defendants  
24 at that time when it is most advantageous without  
25 having it cluttered up with part of the individual

1 defense of that defendant at that time and allow-  
2 ing that to be put in later. There would be no loss  
3 of time because the material would have to go in,  
4 if not at that time, on some individual phase.  
5 There would be no disruption in procedure, as we  
6 have seen in instances where the prosecution has put  
7 a witness on and recalled him at a later time, putting  
8 him on at the proper time when convenient to the  
9 Court and adding weight at the time with the sur-  
10 rounding testimony about it. I would like to have,  
11 if the Court pleases, some definite decision or  
12 understanding of the Tribunal because it affects us  
13 in the witnesses we are to put on immediately  
14 following.

15 THE PRESIDENT: Mr. Logan.

16 MR. LOGAN: If the Tribunal please, in  
17 considering these questions that are raised this  
18 morning, the defense is also anxious to have the  
19 Tribunal decide on this right of the prosecution --  
20 the extent of the prosecution's cross-examination of  
21 the accused, and we would like to have a decision on  
22 that at this time, if possible.

23 THE PRESIDENT: Well, the question is:  
24 What is necessary in the interest of a fair trial?  
25 We have decided by a majority to adopt the Nuernberg

1       rules, which I have read. In Nuernberg the accused  
2       were called in alphabetical order, but we do not  
3       require that.

4               Are you in a position now to proceed,  
5       Captain Brooks? You are the counsel immediately  
6       concerned.

7               MR. BROOKS: I think the defense counsel  
8       would like some guidance on the matter of cross-  
9       examination.

10              THE PRESIDENT: It follows that cross-  
11       examination will be unrestricted.

12              MR. BROOKS: I understand, then, your  
13       Honor, it would be unrestricted if the man is  
14       speaking in his own behalf, putting on testimony,  
15       but as a witness for another it would be restricted  
16       to whatever he was testifying to.

17              THE PRESIDENT: That is to say, if you  
18       contemplate calling any of the accused, not for  
19       himself but for some other accused, in that case the  
20       federal rule will apply.

21              MR. BROOKS: Yes.

22              THE PRESIDENT: How it would apply, I do  
23       not know because even in that case he may be testifying  
24       on his own behalf; I do not see how he could not  
25       be to some extent. Of course, he may testify on a

1 count in which he is not included. That would be  
2 possible. But it seems extremely unlikely.

3 MR. BROOKS: Some of the defendants will  
4 on their individual cases want to call other accused  
5 as witnesses. However, in the case at the present  
6 time, in the phase that we are in now, I am not  
7 calling MINAMI as an individual, for his individual  
8 case, but in the general defense of this case; so  
9 he is really a witness for all of us on whatever  
10 he testifies to, and I will call him back to the  
11 stand at this time when we are ready to proceed.

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G 1            I do understand that the defendant will not  
o 2            be able to take the stand again unless there is new  
l 3            evidence brought in against him by other witnesses  
d 4            on cross-examination or some exceptional case where I  
b 5            can appeal to the Court and show that in the interest  
e 6            of a fair and just trial I would like to have him  
r 7            there to explain certain matters. I do understand  
& 8            that although I call him at this time, in his individual  
K 9            phase, although he may not take the stand I may put on  
a 10           other witnesses and other documents in his defense at  
p 11           that time.

l 12            THE PRESIDENT: If MINAMI takes the stand now  
e 13            he cannot be recalled later in any other phase or in  
r 14            his own case -- his own individual case -- unless the  
a 15            Tribunal permits in exceptional circumstances, and  
u 16            the permission will not be easy to get if we are as  
p 17            careful as the Nuernberg court was in recalling  
l 18            Goering.

19            MR. BROOKS: Do I understand, Mr. President --  
20            it might be wise for me to bring this point up for the  
21            benefit of other defense counsel who may want to  
22            call MINAMI -- do I understand that when I finish with  
23            my affidavit other defense counsel who desire to call  
24            MINAMI as a witness in their behalf at some point  
25            should now come in on direct?

1                   THE PRESIDENT: So far we have placed no  
2 limitation on the right of counsel for other accused  
3 to examine or cross-examine MINAMI if he goes into the  
4 box now.

5                   MR. BROOKS: May the defendant MINAMI be  
6 called?

7                   THE PRESIDENT: Mr. Tavenner.

8                   MR. TAVENNER: If your Honor please, I want  
9 to make certain that one point is clear. When defense  
10 counsel first announced that they would recall  
11 MINAMI a few moments ago, a limitation seemed to me  
12 to be placed on the calling of him by counsel, and  
13 I just wanted to make certain that we understood  
14 whether that is a limitation or not. If I understood  
15 Mr. Brooks, he said that in presenting him now he  
16 would expect to present him again in the event other  
17 evidence was introduced later.

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1 THE PRESIDENT: May I repeat. If MINAMI  
2 gives evidence now, he cannot be recalled later  
3 except by the permission of the Tribunal in exceptional  
4 circumstances; and if he gives evidence now, he must  
5 say whether he is giving it on his own behalf or  
6 whether he is giving it on behalf of other accused  
7 and what accused and in respect of what counts.  
8 If he gives evidence on his own behalf, cross-  
9 examination will be unrestricted. If he gives it  
10 on behalf of another accused, it may be restricted,  
11 but we will not know to what extent it will be  
12 restricted unless we know on whose behalf he is  
13 giving the evidence and in respect of what counts.

14 Suppose he went into the box and said,  
15 "I am giving evidence on behalf of other accused  
16 in respect of the Manchurian phase." While purporting  
17 to give the evidence on behalf of others and not of  
18 himself, he would actually perhaps be giving it on  
19 behalf of himself. We would have to watch that.  
20 No matter what he may say as to his purpose, if he  
21 gives evidence on his own behalf he will be subjected  
22 to unrestricted cross-examination. Cross-examination  
23 calls for very delicate adjustment.

24 MR. TAVENNER: Mr. Brooks informs me that  
25 the language he used as to which I arose was not

1                   intended as a limiting matter or as a condition in  
2                   presenting the witness, so the point I arose to is  
3                   clear.

4                   MR. BROOKS: I was going to make it clear,  
5                   your Honor, that MINAMI is being called in his own  
6                   behalf at this time. However, I am not intending  
7                   to put on his complete individual phase of other  
8                   evidence as such, but he is testifying in his own  
9                   behalf.

10                  THE PRESIDENT: Yesterday we told you that  
11                  you could call MINAMI at any stage.

12                  MR. BROOKS: That is right.

13                  THE PRESIDENT: Nothing that I said this  
14                  morning -- nothing in the Nuernberg rule revokes that  
15                  decision.

16                  MR. BROOKS: That is right.

17                  THE PRESIDENT: If there is anything in the  
18                  Nuernberg decision inconsistent with that, I should  
19                  like to have the point argued. There were no phases  
20                  at Nuernberg, but at Nuernberg defendants were called  
21                  in alphabetical order. If we followed that, ARAKI  
22                  would be called before MINAMI. The Nuernberg decision  
23                  could not be inconsistent with our decision yesterday  
24                  to allow MINAMI to be called because the Nuernberg  
25                  decision did not deal with phases.

1                   MR. BROOKS: Defense counsel, I think,  
2 in the individual cases will follow the alphabetical  
3 ruling in putting on our individual defense of  
4 witnesses and documents pertinent only to that  
5 individual phase only at that time.

6                   THE PRESIDENT: We will recess for fifteen  
7 minutes.

8                   (Whereupon, at 1045, a recess was  
9 taken until 1115, after which the proceedings  
10 were resumed as follows:)

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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Brooks.

4 MR. BROOKS: I now call the defendant  
5 MINAMI on his own behalf on the counts with which  
6 he is charged in the Indictment.

7 THE PRESIDENT: Will the court reporter  
8 repeat what Captain Brooks said.

9 (Whereupon, the statement above re-  
10 ferred to was read by the official court  
11 reporter.)

12 THE PRESIDENT: That covers everything.

13 MARSHAL OF THE COURT: Mr. President, the  
14 witness was sworn yesterday and signed the oath of  
15 witness.

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1 JIRO MINAMI, one of the accused, having  
2 been previously sworn, was recalled and testified  
3 through Japanese interpreters as follows:

4 THE PRESIDENT: At the completion of the  
5 examination in chief we propose to adjourn to enable  
6 the counsel for other accused to consider their  
7 position.

8 MR. BROOKS: May the witness be handed defense  
9 document 989?

10 (Whereupon, the document above  
11 referred to was handed to the witness.)

12 DIRECT EXAMINATION

13 BY MR. BROOKS:

14 Q Will you examine that document, General  
15 MINAMI, and determine whether that is your affidavit.

16 A This is my affidavit.

17 MR. BROOKS: I might request, if the Court  
18 please, that a copy of the affidavit be left with  
19 the defendant MINAMI so he may follow the reading  
20 over the IBM because of his difficulty in hearing.

21 THE PRESIDENT: Is his hearing impaired in  
22 any way?

23 MR. BROOKS: His hearing is impaired.

24 THE PRESIDENT: Under those special  
25 circumstances

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we accede to your request.

1 MR. BROOKS: May defense document 989 --

2 I now offer defense document 989 into evidence.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Defense document No.

5 989 will receive exhibit No. 2435.

6 (Whereupon, the document above re-  
7 ferred to was marked defense exhibit No.  
8 989 and received in evidence.)

9 MR. BROOKS: I ask the witness to follow  
10 closely the reading of the affidavit. At the end,  
11 if there are any corrections or if there are any  
12 errors, I will ask you to point them out.

13 I now read exhibit 2435. This is the  
14 affidavit of Jiro, MINAMI.

15 THE PRESIDENT: Mr. Comyns Carr.

16 MR. COMYNS CARR: Your Honor, in order to  
17 avoid interrupting my friend in the middle of the  
18 affidavit may I call attention to the fact that at  
19 the bottom of page seven and the top of page eight  
20 there is a reference to a letter which the witness  
21 says he received from Mr. Pu-Yi and that he says  
22 is still in his possession, but it is not produced.

23 MR. BROOKS: That is exhibit 278, your Honor.  
24 It is already in evidence.

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1                   MR. COMYNS CARR: As long as it is clear  
2 that it is the same document, your Honor.

3                   MR. BROOKS: The clerk also has that in  
4 court if they want it.

5                   MR. COMYNS CARR: I am told that when it  
6 was first put in it was for identification only. Has  
7 it been made -- May I inquire whether it has been  
8 put in evidence at any stage?

9                   MR. BROOKS: The prosecution tendered it  
10 themselves, as I recall, later on.

11                  MR. COMYNS CARR: 278.

12                  CLERK OF THE COURT: For identification  
13 only. It was a letter purporting to be written by  
14 Henry Pu-Yi.

15                  MR. COMYNS CARR: And never put into evidence.

16                  MR. BROOKS: Mr. Keenan requested that later.  
17 It was originally put in for identification, if you  
18 recall, and I think a check of the record will bear  
19 that out. We will see that it is put in, if the  
20 prosecution wants.

21                  THE PRESIDENT: Tender it when you come to  
22 the reference, Captain Brooks, I suggest.

23                  MR. BROOKS: I understand it was tendered  
24 by Mr. Keenan at his request and the clerk, while we  
25 are reading the affidavit, can check on that and if

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1 not we will tender it.

2 (Reading):

3 "I was born on August 10, 1874 at Hiji-  
4 machi, Oita Prefecture. After completing the usual  
5 course at a military preparatory school and the  
6 Military Academy, I was commissioned 2nd Lieutenant  
7 of Cavalry in 1895. I took part in the Russo-  
8 Japanese War (1904-1905) as a captain of cavalry.  
9 At that time ear trouble developed as a result of  
10 concussion of cannon fire and for this reason, I  
11 have now lost my auditory sense.

12 "In 1924, I became Cavalry Inspector as  
13 Lieutenant General; in 1926, Commander of the  
14 Sixteenth Division; in 1927 Assistant Chief of the  
15 General Staff; in 1929, Commander of the Korean  
16 Army; and in 1930, a Supreme War Councilor as full  
17 General. On April 14, 1931 when the second WAKATSUKI  
18 Cabinet was formed, I was appointed Minister of War.  
19 The above a period in which the Japanese Army was  
20 reduced by four divisions to carry into effect the  
21 decisions of the Washington Conference, and energetic  
22 efforts were made in the retrenchment of the national  
23 budget. Especially the cabinets formed by the Minseito  
24 Party, viz., the KATO, Takaaki Cabinet (June 1924 -  
25 January 1926), the first WAKATSUKI Cabinet (January

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1 1929 - April 1927), the HAMAGUCHI Cabinet (July 1929 -  
2 April 1931), and the second WAKATSUKI Cabinet above  
3 referred to took internally the policy of financial  
4 retrenchment and upheld externally the policy of peace-  
5 ful and conciliatory diplomacy. Although I was not a  
6 member of the Minseito, I had a thorough understanding  
7 of its policies because General UGAKI, my intimate  
8 senior and by whose recommendation I became his successor,  
9 had been in office as War Minister for a long time in  
10 the Minseito Cabinets ever since the formation of the  
11 KATO Cabinet mentioned above. On August 4, 1931, I  
12 called the customary conference of Division Commanders  
13 in the War Ministry for the first time since I assumed  
14 the office of War Minister. The address of instruc-  
15 tions which I delivered on that occasion unexpectedly  
16 aroused the opposition of a section of the political  
17 circles. As it would be clear from a glance at its  
18 contents, I gave expression to nothing more than a  
19 view natural to a War Minister -- stating that every  
20 effort should be made in the training of soldiers to  
21 maintain the efficiency of the Imperial Army under  
22 the difficult conditions caused by arms reduction.  
23 It appears that an issue was created by the fact that  
24 some anti-government elements conspired to overthrow  
25 the government by intentionally distorting some of my

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1 statements. That I was not opposed to arms reduction  
2 may be recognized in the light of the fact that in  
3 May 1931, I revised the Army Pay Ordinance, with  
4 salary reductions ranging from 5.8% for First Lieuten-  
5 ants to 12% for Generals, and that I also endeavored  
6 even to effect a cut in pensions.

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1 I said no more than this: that while the European and  
2 American powers had swiftly modernized their armaments  
3 as a result of World War 1, Japan has left her arms  
4 in the same condition as they had been in the previous  
5 century, and therefore stressed that in order to per-  
6 perfect our national defense with a minimum of arms, we  
7 must effect an improvement in quality. That I did not  
8 try to inspire a positive policy toward Manchuria and  
9 Mongolia may be best illustrated by the fact that when  
10 an incident broke out later I strenuously maintained  
11 the policy of non-expansion to such an extent that I  
12 was attacked for being too passive both by the army  
13 on the spot and by the people at home. What I said in  
14 my speech was that inasmuch as the pending questions in  
15 Manchuria and Mongolia were exceedingly complicated,  
16 and inasmuch as Premier WAKATSUKI and Foreign Minister  
17 SHIDEHARA had announced their views toward the new  
18 situation, the army also on its own should not fail  
19 to give its attention thereto.

20 "In the night of September 18, 1931, I was  
21 staying as usual in the official residence of the War  
22 Minister. About 3 o'clock on the morning of the 19th  
23 I was suddenly awakened by an officer on duty in the  
24 War Ministry and handed a telegram despatched by the  
25 Special Service Organ in Mukden. The message said

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1 that about 10:30 p.m. of the 18th the tracks of the  
2 South Manchuria Railway northwest of Mukden had been  
3 destroyed by Chinese troops, that our railway guard  
4 unit had been fired upon and that the Second Battalion  
5 of the Independense Garrison had started to move to  
6 the spot. About an hour later a telegram came from  
7 Commander HONJO which said: "Leaving Port Arthur at  
8 3:00 a.m. for Mukden." The telegram was simple and  
9 the situation was not clear, but as it was evident  
10 that a clash had occurred between the regular Japanese  
11 and Chinese troops, I immediately called Lieutenant  
12 General SUGIYAMA, Vice-Minister of War, Major General  
13 KOISO, Director of the Military Affairs Bureau, and  
14 Lieutenant Colonel KUSHIBUCHI, my private secretary,  
15 to my official residence to consider steps to meet  
16 the situation. At about 5:30 or 6:00 a.m. I reported  
17 the incident by telephone to the Premier, and the For-  
18 eign Overseas and Navy Ministers, and to the Premier  
19 I requested the immediate convening of an extraordi-  
20 nary cabinet meeting.

21 "Meanwhile the General Staff Headquarters had  
22 also received a similar telegram and Chief of the Gen-  
23 eral Staff KANAYA, Assistant Chief of the General Staff  
24 NINOMIYA and other responsible members of the Head-  
25 quarters were in conference. At about 7 a.m. Director

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1 KOISO of the Military Affairs Bureau representing  
2 the War Ministry went to the General Staff Head-  
3 quarters for liaison. At about 9.00 a.m. the two  
4 parties came to an agreement, and decided upon the  
5 policy of non-expansion. What we feared more than  
6 anything else at the time was whether or not the  
7 lengthy railway line, the 200,000 Japanese residents  
8 and one million Koreans in Manchuria could be pro-  
9 tected with the small Kwantung Army force of 10,000  
10 men in the face of the formidable army of CHANG  
11 Hsueh-liang numbering 250,000. If the Nikolaevsk  
12 Incident involving the massacre of several hundreds  
13 of Japanese residents in Nikolaevsk by Russians in  
14 1920 were to be repeated it would be a serious matter  
15 and the army would be charged for negligence in the  
16 proper performance of its duties to the people. For  
17 this reason opinion in the Supreme Command strongly  
18 favored the despatch of reinforcements for operational  
19 reasons and therefore it took some time before the  
20 War Ministry could come to a decision on the non-  
21 expansion policy. At an extraordinary cabinet meeting  
22 held at 10:00 a.m. the foregoing policy was adopted  
23 by the Cabinet, and thereafter the Prime Minister and  
24 the Chief of the General Staff in turn reported the  
25 decision to the Throne and obtained the Imperial

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1 Sanction. That afternoon the Chief of the Army  
2 General Staff wired this fact as a Supreme Command  
3 order to Commander HONJO of the Kwantung Army and I  
4 sent telegraphic instructions on the government  
5 policy to the Commander myself. From this time on  
6 the military operations of the army on the spot came  
7 under the jurisdiction of the Chief of the Army  
8 General Staff as an exercise of the prerogative of  
9 the Supreme Command. At this time Lieutenant General  
10 HAYASHI, Senjuro, Commander of the Korean Army re-  
11 ported to Tokyo that sending reinforcements to Man-  
12 churia admitted of no delay, but a stop order was  
13 communicated to him through the Chief of General  
14 Staff.

15 "In the afternoon of the 21st, while I was  
16 engaged in consultation with Premier WAKATSUKI after  
17 the conclusion of the Cabinet meeting and all cabinet  
18 ministers had retired, a telegram arrived from the  
19 Commander of the Korean Army, reporting that, moved  
20 with irresistible sympathy over the fervent requests  
21 of the Kwantung Army, he had, at his own discretion,  
22 ordered the Shingishu Mixed Brigade to cross the  
23 border. After conferring with the Premier, I re-  
24 ported the border crossing of the Korean Army at its  
25 own discretion to a cabinet meeting held in the morn-

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ing of the following day, the 22nd. The Cabinet,  
1 taking into consideration the precarious position of  
2 the Kwantung Army, saw no alternative but to approve  
3 the despatch of the said brigade and the defrayment of  
4 expenses accompanying such action. The Prime Minis-  
5 ter immediately reported the affair to the Emperor,  
6 the Chief of the General Staff following suit, and  
7 the Imperial Order for the crossing of the border was  
8 communicated to the Korean Army by the Chief of the  
9 Army General Staff. The Cabinet meeting on the same  
10 day decided that, as the action of the Kwantung Army  
11 was a temporary measure and not an occupation of  
12 Manchuria, no military administration was to be es-  
13 tablished. This decision was communicated to Com-  
14 mander HONJO by myself. Further, on September 26,  
15 the Cabinet passed a decision prohibiting Japanese  
16 participation in the movement to establish a new  
17 government in Manchuria and telegraphic instructions  
18 to this effect were sent by the Foreign Ministry to  
19 Foreign Office organs in Manchuria and to the Kwan-  
20 tung Army by myself. Such instructions were consid-  
21 ered necessary because we had received reports that  
22 movements for the independence of Manchuria had sud-  
23 denly become active with the outbreak of the incident,  
24 and especially that those in favor of restoring the

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1 Ching Dynasty had started vigorous activities, and we  
2 were concerned lest the army on the spot should be  
3 dragged into such activities. Later, in the early  
4 part of November, a person by the name of TOYAMA,  
5 Takeo brought me a letter as a messenger of Emperor  
6 HSUANTUNG who had been residing in Tientsin."

7 This is the letter referred to as exhibit  
8 278. Is it in evidence?

9 CLERK OF THE COURT: The Court record shows  
10 that exhibit No. 278 was offered for identification  
11 21 August, 1946 by the defense and offered in evi-  
12 dence by the prosecution 22 August, 1946.

13 MR. COMYNS CARR: Does the Court record show  
14 that it was accepted in evidence?

15 CLERK OF THE COURT: The record does not  
16 show.

17 MR. COMYNS CARR: I understand it was not,  
18 for which reason, as far as I am aware, nobody has a  
19 translation of it, neither in the prosecution nor, as  
20 far as I know, in the Court. May I ask if there is  
21 a translation of it amongst the Court records?

22 THE PRESIDENT: If it is not there, you will  
23 supply it, won't you, Captain Brooks?

24 MR. BROOKS: Yes, your Honor.

25 Resuming the reading:

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1        "Although I did not personally talk with him,  
2        his message which was conveyed to me through my sec-  
3        retary or officer on duty -- I do not remember which --  
4        was that the Emperor HSUANTUNG was desirous of effect-  
5        ing a fundamental correction of the evil administra-  
6        tion of the Sheng regime in Manchuria. As there  
7        was no reason for me to believe the words of such a  
8        messenger, and especially as it was the government's  
9        fixed policy not to interfere in the domestic affairs  
10       of China, and I did not favor the proposition, I  
11       ignored the letter without replying to the letter of  
12       Mr. Pu Yi.

13       "Not only that, on November 15 I sent tele-  
14       graphic instructions to the Commander of the Kwantung  
15       Army stating that: 'While various rumors current  
16       about the question of Emperor HSUANTUNG, the Kwantung  
17       Army must strictly refrain from interfering in the  
18       domestic affairs of China, and act with utmost  
19       caution.'

20       MR. COMYNS CARR: I object to this portion  
21       of the affidavit, your Honor. This is an attempt to  
22       get in by hearsay evidence as to the authenticity of  
23       the signature. In my submission, that is going be-  
24       yond the limits of anything in the way of hearsay  
25       that the Court has so far tolerated.

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1                   MR. BROOKS: If the Tribunal please, I under-  
2 stand there is no restriction on an accused saying  
3 anything that is relevant to the case **at** any time.  
4 I object to these interruptions. I think the prose-  
5 cution may want more time, and I object to the in-  
6 terruptions of my reading the affidavit.

7                   MR. COMYNS CARR: There is no need to make  
8 observations of that sort, in my submission, your  
9 Honor. With regard to the position of an accused in  
10 tendering evidence, in my submission, he is in no  
11 different position from any other witness.

12                  MR. BROOKS: Not only that, your Honor:  
13 A large part of the prosecution's case was hearsay  
14 also; and this is not hearsay, but it is a statement  
15 as to the signature on that letter.

16                  THE PRESIDENT: The Tribunal admits it.  
17 But, as to its weight, we may have different opinions;  
18 it all depends.

19                  MR. BROOKS: Continuing reading:  
20                  "Several years later, when Cheng Hsiao-hsu,  
21 Prime Minister of Manchukuo, visited Japan, I called  
22 on him at the Imperial Hotel and, showing him the  
23 letter in question, asked him whether the letter was  
24 genuine or false. Cheng signed the letter certifying  
25 that it was the real handwriting of Emperor HSUANTUNG.

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1 I have kept this letter to this day as a souvenir.

2 "On September 24, the Japanese Government  
3 issued its first statement concerning the Mukden  
4 Incident. Prior to this announcements on the situa-  
5 tion were being issued about twice a day by our dele-  
6 gation to the League of Nations. Conditions on the  
7 spot, however, were not sufficiently clear even to  
8 us cabinet ministers. After the incident seemed to  
9 have been settled, a new situation developed with  
10 the result the situation was always ahead of the  
11 government statement, placing me in a very awkward  
12 position. This was because, as a principle on which  
13 the army was established the War Minister could not  
14 interfere with military operations. The Kwantung  
15 Army, on the other hand, appealed to us that the  
16 situation on the spot was such that, while the army  
17 in Manchuria had to abide by the non-expansion, it  
18 was unavoidable for them to take necessary measures  
19 for self-defense in the face of constant attacks by  
20 an enemy whose forces were more than twenty times  
21 greater than our own and that, unless they did other-  
22 wise, nothing remained for them but self-annihilation.  
23 And yet, when a request came from the Kwantung Army  
24 for permission to despatch troops to Harbin for the  
25 protection of Japanese residents, we not only per-

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suaded the Chief of the Army General Staff and had it  
flatly rejected, but also succeeded in having the  
main force withdraw to the railway zone. However,  
with the withdrawal of our troops Chang Hsueh-liang's  
armies, taking advantage of the situation, advanced  
to the railway zone, causing disturbances in the rear.  
Consequently, in the beginning of October, a recon-  
naissance flight was made by our aircraft over Chin-  
chow, the headquarters of the Chang army. Then the  
report was received that, as the Chang forces had  
opened fire, our aircraft had dropped bombs on them.  
As the flight was made without any previous notifi-  
cation either to the Chief of the Army General Staff  
or to me, I immediately issued a severe warning to  
Commander HONJO. In November Ma Chan-shan's army  
destroyed a railway bridge over the Nonni River and  
fired on our units which went to repair it. As Ma's  
troops failed to comply with our repeated warnings,  
the Kwantung Army decided to repulse them. Later  
the central military authorities ordered the Kwan-  
tung Army to evacuate immediately from Tsitsihar,  
and this order was effectively carried out. In the  
latter part of November, when a riot broke out among  
Chinese troops in Tientsin, a request came from the  
North China Garrison for reinforcements. Not only

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1 was this request refused, but the reinforcement of  
2 the Kwantung Army which had advanced to the neigh-  
3 borhood of Chinchow also was ordered to withdraw  
4 to the railway zone near Hsinmintun east of the river  
5 Tataoho. About this time, the annual army maneuvers  
6 were held in Kyushu under the personal supervision  
7 of the Emperor. Although the War Minister had to  
8 accompany His Majesty, I remained in Tokyo with the  
9 Imperial permission as I had to attend to the ever  
10 changing situation both at home and abroad, and  
11 exerted my best efforts to prevent the expansion  
12 of the conflict, in close collaboration with govern-  
13 ment as well as the Supreme Command. I still re-  
14 member that when we succeeded in preventing the  
15 advance of the Kwantung Army to Chinchow the Prime  
16 Minister and I, just the two of us together, drank  
17 a toast congratulating ourselves on our success at  
18 the Premier's official residence. Such being the  
19 case, I can state with the utmost confidence that  
20 at least while I was War Minister, there absolutely  
21 never was issued a false statement or a breach of  
22 international agreements committed, although because  
23 of the rapidly changing situation in Manchuria, the  
24 statements of the Japanese Government and the actual  
25 conditions on the spot were inverted in point of

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1 time and therefore were confused.

2 "Aside from the many difficult problems in  
3 Manchuria mentioned above, I was informed in the  
4 middle of October that there were indications of  
5 possible disorder among a group of young officers  
6 at home. I had these elements immediately appre-  
7 hended by the Gendarmerie and had the matter pro-  
8 perly dealt with. Because of the moderate policy  
9 of the WAKATSUKI cabinet voices of dissatisfaction  
10 against it grew up both within and without Japan.  
11 This led the Prime Minister to try to organize the  
12 Cabinet by a coalition of the Minseito and Seiyukai  
13 parties. This attempt failed, however, and the in-  
14 dependent action taken by Home Minister ADACHI  
15 caused the Cabinet to resign en bloc on December 10  
16 because of disunity in the Cabinet. After my resig-  
17 nation from the office of War Minister I was given  
18 the obscure post of Supreme War Councillor. There  
19 was nothing to do except to assemble about twice a  
20 year to hear lectures given by the military author-  
21 ities. As I had been requested to serve as tutor  
22 to the young Prince KAN-IN, I devoted my time to  
23 this work and paid but little attention if any to  
24 the political and military affairs. Just after  
25 three years, on December 10, 1934, I was unexpectedly

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1 appointed Ambassador to Manchukuo, and concurrently  
2 Governor of the Kwantung Leased Territory and Com-  
3 mander of the Kwantung Army, at the recommendation  
4 of the OKADA Cabinet.

5 "Being installed in the new posts by the  
6 personal command of His Majesty, I went to Ksinking  
7 after consultations with Prime Minister OKADA, For-  
8 eign Minister HIROTA, Finance Minister TAKAHASHI,  
9 War Minister HAYASHI and Justice Minister OBARA, en-  
10 trusted with the task of having the government's  
11 policy thoroughly carried out in Manchukuo. Not  
12 only had the Japan-Manchukuo Protocol been concluded  
13 and Japan recognized the independence of Manchukuo  
14 the previous year, but the Vatican, the Republic  
15 Salvador and the Dominican Republic had also recog-  
16 nized her and Manchukuo was growing as a newborn in-  
17 dependent state. In January of the following year  
18 (1935), Foreign Minister HIROTA declared in the Diet  
19 the policy of amity toward China and on February 3,  
20 replies thereto came from General Chieng Kai-shek,  
21 Mr. Wang Ching-wei and Mr. Sun Fo, thus bringing  
22 about mutual understanding between China and Japan.  
23 This was followed by the satisfactory conclusion of  
24 various agreements between Manchukuo and China re-  
25 lating to customs, postal and telegraphic matters.

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1 In March Manchukuo entered into agreements with Soviet  
2 Russia for the navigation of inland waterways and for  
3 the sale of the Chinese Eastern Railways, and it was  
4 agreed to that a committee be appointed for the set-  
5 tlement of the boundary question. As Field Marshal  
6 MUTO, the first Ambassador to Manchukuo, was received  
7 by the Emperor of that country on the 1st, 11th and  
8 21st of each month, and General HISHIKARI, the second  
9 Ambassador, on the 2nd, 12th and 22nd, I, as the  
10 third, had the 3rd, 13th and 23rd of each month as  
11 my days for regular audiences. During the period be-  
12 tween April 2 and April 27, the Emperor of Manchukuo  
13 visited Japan, and was graciously received by our  
14 Imperial Family. Thus as Japan and Manchukuo stood  
15 on equal footing, it was the policy of the OKADA  
16 Cabinet and also my personal conviction that the In-  
17 dependence of Manchukuo should be completely re-  
18 respected and every encouragement given for her healthy  
19 growth as a sovereign state. Hence the Kwantung Army  
20 made the maintenance of peace and order as its pri-  
21 mary function and for this reason I frequently gave  
22 them stern instructions not to meddle in politics or  
23 do anything injurious to the prestige of Manchukuo.  
24 In pursuance of the policy of the government as soon  
25 as I took office, I abolished the Special Service

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1 Department of the army and the government of the  
2 Kwantung Leased Territory and tried my best to  
3 simplify the Japanese organs in Manchukuo to every  
4 extent possible. During my tenure of office there  
5 was never a case of Japanese troops crossing the  
6 border.

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1        "In May, 1935, the Japanese Legation in China  
2        was elevated to Embassy status and Ambassador ARIYOSHI  
3        presented his credentials to President Lin Shen of  
4        the Chinese Government. In June, General Chiang  
5        Kai-shek promulgated the Neighborly Friendship  
6        Ordinance which greatly stimulated the growth of  
7        friendly sentiments between Japan and China. During  
8        the same month, in order to assure peace along the  
9        China-Manchukuo border, the so-called 'UMEZU-Ho  
10       Yin-chin, DOHIHARA-Cheng Te-chun' and other agree-  
11       ments were concluded. With regard to these agree-  
12       ments I received reports that they were concluded in  
13       an exceedingly friendly atmosphere. Although these  
14       agreements were of a local nature, they were con-  
15       cluded with the full approval of the governments of  
16       both countries. In July the Japan-Manchukuo Economic  
17       Commission was set up to deal with various economic  
18       questions on a basis of equality. In August, the  
19       Japanese government announced its decision to re-  
20       linquish Japanese extra-territorial rights in Man-  
21       chukuo. This was a serious decision on Japan's  
22       part, as she was to return to Manchukuo the rights  
23       and interests which she had hitherto enjoyed there.  
24       During the same month, Prince Teh of Inner Mongolia  
25       came to Hsinking with a request for an audience with

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1 the Emperor. It is believed that the Prince, envious  
2 of the sound and peaceful development of Manchukuo,  
3 desired to make Inner Mongolia independent, follow-  
4 ing the example of Manchukuo. As for me, I believed  
5 that the independence of Inner Mongolia which Prince  
6 Teh was planning was not proper both from the stand-  
7 point of substance and time and always refused his  
8 requests for assistance. Lieutenant Colonel TANAKA,  
9 Tyukichi, then a staff officer of the Kwantung Army,  
10 being well acquainted with the conditions in Mon-  
11 golia because of his duties, was enthusiastic about  
12 the question of Mongolia. Even as late as 1942 he  
13 visited me in Tokyo with a request that I become the  
14 head of an association for assisting the independence  
15 of Mongolia. Of course, I refused to comply with this  
16 request. For the same reason, with regard to the  
17 North China question also, I only devoted my efforts  
18 for the maintenance of peace between China and Man-  
19 chukuo, in accordance with the directions of the cen-  
20 tral government, and never at any time did I attempt to  
21 engage in political negotiations. I heard that the  
22 formation of the Hopei-Chahar regime toward the end  
23 of the same year was at the initiative of the Chinese  
24 Government. On February 26, 1936, an armed insurrec-  
25 tion broke out in Tokyo, resulting in the assassina-

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1 tition of a number of prominent men. Lamenting over  
2 this situation, I voluntarily requested to be relieved  
3 from my office. I was relieved of my post on March  
4 6, and placed on the waiting list on April 18, and  
5 was transferred to the reserve list on April 22.  
6 Soon after my return to Japan, on August 5, I was  
7 unexpectedly appointed Governor General of Korea."

8 Do you want me to stop there, if your  
9 Honor please, or try to continue? I do not think I  
10 can finish before noon. This is a good place --

11 THE PRESIDENT: You can finish in about  
12 five minutes. You have about two minutes to go and  
13 a few minutes after that.

14 MR. BROOKS: All right, your Honor.

15 "I think it was my predecessor as Governor  
16 General of Korea, General UGAKI, who recommended me  
17 as his successor. I took this office not as soldier  
18 but as civilian. As all military affairs were under  
19 the exclusive charge of the Commander of the Korean  
20 Army, I never handled military matters during tenure  
21 of office in Korea. As Governor General, I have  
22 nothing to say except that I devoted myself entirely  
23 to the elevation of the status and conditions of the  
24 Korean people.

25 "After my retirement as Governor General of

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1      Korea on May 29, 1942, I was appointed a Privy Coun-  
2      cillor, which post I held until March 1945. During  
3      my tenure of office His Majesty consulted the Privy  
4      Council with regard to a proposal concerning the re-  
5      vision of the government organization regulations to  
6      place the governor-generals of Korea and Formosa under  
7      the jurisdiction of Home Minister, in consequence of  
8      the establishment of the Ministry of Greater East  
9      Asiatic Affairs in October 1942. At that time, I was  
10     appointed a member of the Investigation Committee of  
11     this proposal by the President of the Council. Al-  
12     though I did not utter a single word about the Min-  
13     istry of Greater East Asiatic Affairs, I vigorously  
14     opposed the government proposal concerning the office  
15     of the governor-general of Korea, on the basis of my  
16     personal experience, because I felt apprehension lest  
17     the new measure have various undesirable effects upon  
18     colonial administration. However, the proposal was  
19     approved over my objection by the majority. I have  
20     nothing else to say with reference to my tenure of  
21     office as Privy Councillor.

22      "The Imperial Rule Assistance Political  
23      Society formed during the KONOYE Cabinet by the dis-  
24      solution of all political parties, gradually lost  
25      the confidence of the people, and in its place the

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1 Dai-Nippon Seiji Kai (Japan Political Association)  
2 was established on March 30, 1945. Unlike the former,  
3 the latter was not a government serving organization.  
4 The chief aim of the new association was to reflect  
5 public opinion upon government, and thereby correct  
6 the policies of the government and the military.  
7 In this respect, the new organization was fundamental-  
8 ally different from the Imperial Rule Assistance  
9 Political Society, which had no link whatsoever with  
10 the people. I was recommended to lead this associa-  
11 tion by those who used to hold leading positions  
12 in the former Seiyukai and Minseito Parties because  
13 in their opinion I was best qualified to restrain and  
14 control government and the military. Realizing in-  
15 tensely the necessity of guiding Japanese politics  
16 in accordance with public opinion in view of the in-  
17 creasingly critical war situation, I accepted the  
18 offer, pledging my life to the performance of my  
19 task. In order to attain the aims of the new associa-  
20 tion, I began my work as its head by establishing  
21 chapters in prefectures, cities, towns and villages  
22 throughout the country, with a view to maintaining  
23 direct contact with the people. The expenses of  
24 the new society were met by membership fees. No  
25 financial support whatsoever was received from the

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1 government. In order to hear the true voice of the  
2 people, I personally attended the inaugural meeting  
3 of local chapters, and as soon as I returned to Tokyo  
4 from my trips I counselled the government and mili-  
5 tary authorities as to how the people thought and  
6 what they wished. Less than six months after the  
7 association was formed, the war came to an end, and  
8 it was dissolved on August 20, 1945."

9 There is no other accused, your Honor, who  
10 desires to conduct additional direct examination or  
11 cross-examination on the affidavit of this witness;  
12 and there is, therefore, no need, so far as the  
13 defense is concerned, for any adjournment for that  
14 purpose.

15 MR. MIMACHI: Following consultation during  
16 the noon recess, I might have a number of direct  
17 questions to address to this witness by way of direct  
18 examination. That would be on one or two points.

19 THE PRESIDENT: You do not require an ad-  
20 journment over the afternoon for that purpose?

21 MR. MIMACHI: After the noon recess, sir.

22 THE PRESIDENT: We will adjourn until half-  
23 past one.

24 (Whereupon, at 1200, a recess was  
25 taken.)

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1                   AFTERNOON SESSION  
2

3                   The Tribunal met, pursuant to recess, at 1330.  
4                   MARSHAL OF THE COURT: The International  
5                   Military Tribunal for the Far East is now resumed.  
6                   JIRO MINAMI, one of the accused, having  
7                   been previously sworn, resumed the stand and  
8                   testified through Japanese interpreters as  
9                   follows:

10                  THE PRESIDENT: Captain Brooks.

11                  DIRECT EXAMINATION  
12

13                  BY MR. BROOKS (Continued):

14                  Q    General MINAMI, you have heard your affidavit  
15                  read. Is it correct as read?

16                  A    No errors.

17                  MR. BROOKS: The prosecution may cross-examine.  
18                  There will be no further examination by the defense.

19                  MR. COMYNS CARR: If the Tribunal please --

20                  THE PRESIDENT: I understood a Japanese coun-  
21                  sel was to put some questions.

22                  MR. BROOKS: I questioned him on that, your  
23                  Honor, as co-counsel. I questioned the counsel re-  
24                  ferred to, your Honor. He is one of my associate  
25                  counsels, and I did not see fit to ask those questions  
                      at this time.

1                   THE PRESIDENT: What happened to Pu-Yi's  
2 letter? Was it finally tendered?

3                   MR. BROOKS: Mr. Pu-Yi's letter fits into the  
4 next phase following. Mr. Blakeney is going to present  
5 it and a handwriting expert at that time. He may refer  
6 to it at that time, or I will offer it now, whichever  
7 the Court desires.

8                   THE PRESIDENT: Admitted on the usual terms.

9                   Mr. Carr.

10                  MR. COMYNS CARR: Your Honor, may I ask  
11 whether--

12                  CLERK OF THE COURT: Court exhibit No. 278  
13 has now been admitted in evidence. It was tendered for  
14 identification on the 21st day of August 1946.

15                  (Whereupon, the document above re-  
16 ferred to was received in evidence.)

17                  MR. COMYNS CARR: No translation of it has  
18 ever been served, your Honor. May I ask that that  
19 be done?

20                  THE PRESIDENT: That must be done.

21                  MR. BROOKS: The translations have been served  
22 several days ago, and the copies of the Court will now  
23 be served of that letter.

24                  THE PRESIDENT: Mr. Carr.

25                  MR. COMYNS CARR: Your Honor, the affidavit

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1 also contains, as the Tribunal will have noticed, a  
2 large number of references to documents which are  
3 neither produced nor accounted for. The Tribunal has  
4 several times warned the defense that that must be done.  
5 In the case of an important affidavit such as this I  
6 am going to ask the Tribunal to rule that it either be  
7 done or the passages in question be struck out of the  
8 affidavit.

9 MR. BROOKS: As the Court will recall some  
10 time last year the documents in question were subpoenaed  
11 by the defense for MINAMI's use from the Documents Center  
12 at Washington, D. C. We have received several reports  
13 from that Documents Center in answer to telegraphic  
14 messages urging those documents to be forwarded promptly.

15 THE PRESIDENT: But the rule still stands.  
16 The documents must be produced or accounted for, other-  
17 wise the evidence will be disregarded.

18 MR. BROOKS: If the power of the International  
19 Military Tribunal's subpoena is disregarded, I am sure  
20 the defense can't go any further than that.

21 However, we do have copies that have been  
22 taken from some of the exhibits or evidence that has  
23 been in the hands of the prosecution that we have of-  
24 fered previously to this and have been rejected.

25 THE PRESIDENT: Does Washington's attitude

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1 account for all the documents except Pu-Yi's letter?

2 MR. BROOKS: They account for the documents,  
3 the telegrams that I think the prosecution is refer-  
4 ring to, the top secret documents that were forwarded.  
5 The witness on the stand is the man that sent the  
6 telegrams and should know what was in them.

7 And we have other documents that have been  
8 referred to repeatedly. I don't think the prosecution  
9 is aware of the situation of our efforts in trying to  
10 get these documents into Court. We are as anxious to  
11 get them as they are.

12 MR. COMYNS CARR: Can my friend point to any  
13 evidence that the particular documents in question  
14 ever went to Washington?

15 MR. BROOKS: There is a catalog index of all  
16 the documents that went to Washington in the prosecu-  
17 tion's possession, and by borrowing that said index  
18 from the prosecution is how we discovered where they  
19 were, and we based upon that catalog and index and  
20 code numbers our subpoenas, describing them by code  
21 numbers.

22 The difficulty seems to be in Washington that  
23 many of these documents were in Japanese et cetera,  
24 and there is a large number of documents in that file  
25 there, and in locating and preparing those for shipment,

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1 as I understand, there is other documents in there  
2 besides the ones that we have subpoenaed; of course,  
3 they will only want to sort out the ones we have  
4 asked for and send those, not all the bales.

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1                   THE PRESIDENT: Has Washington given any  
2 reason for not complying with the subpoena?

3                   MR. BROOKS: I asked our defense counsel who  
4 have been in Washington since the subpoena was issued  
5 to check several times on this matter and we have  
6 been informed that sometimes it takes months for these  
7 documents to arrive by the process of shipment that they  
8 receive in Washington, and in some cases some of the  
9 boxes had not arrived at that time.

10                  THE PRESIDENT: If the originals are not  
11 immediately available the Charter allows us to admit  
12 secondary evidence. They are not immediately available,  
13 according to you, Captain Brooks.

14                  MR. COMYNS CARR: Your Honor, there is no  
15 evidence whatever of that, nor is there the slightest  
16 attempt in this nor any of the other affidavits to  
17 which I have objected to identify any particular docu-  
18 ments spoken of in the affidavit with any particular  
19 document alleged to be in Washington.

20                  MR. BROOKS: We will attempt to process the  
21 copies of the documents that we have taken from the  
22 prosecution document files and present those as soon  
23 as we can have them processed.

24                  THE PRESIDENT: The Court will be greatly  
25 relieved if cross-examination could continue in the

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CROSS

1 meantime.

## 2 CROSS-EXAMINATION

3 BY MR. COMYNS CARR:

4 Q General MINAMI, can you hear the questions  
5 with the assistance of those earphones?

6 A I can hear.

7 Q You became War Minister on the 14th of  
8 April, 1931, did you not?

9 A Yes.

10 Q Were you aware of the plans in existence  
11 to be used in the event of war with various countries  
12 at that time?

13 A I do not know; I am not aware of them in detail.

14 Q Did you know, for instance, that it was part  
15 of the plan, the Japanese plan, in the event of war  
16 against Russia, that advances should be made in several  
17 directions, including one through Manchuria?

18 A I do not know.

19 Q Didn't you take any interest in such a matter?

20 A At that time I did not.

21 Q Why not?

22 A When I became War Minister, I entered  
23 primarily upon the task of reforming and reorganizing  
24 the army.

25 THE INTERPRETER: Correction: My primary

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CROSS

1 task was to reform the organization of the army.

2 Q You have referred to the speech which you  
3 made on the 4th of August, 1931. Did you express the  
4 view that Manchuria was Japan's life line?

5 A Yes.

6 Q And wasn't that because in the event of war  
7 breaking out between Japan and Russia, you would  
8 require Manchuria as a base for operations against  
9 Russia?

10 A Yes.

11 Q Now, if Manchuria was still a part of China  
12 at the time when war broke out between Japan and  
13 Russia, for Japan to advance through Manchuria would  
14 or might involve war with China as well as Russia, would  
15 it not?

16 MR. BROOKS: I object to that question, your  
17 Honor, as being speculative; it has no relevancy and  
18 materiality.

19 THE PRESIDENT: Objection overruled.

20 Q What is the answer to the question?

21 A If unfortunately there was a clash between  
22 Japan and Russia, it was our intention not to have  
23 China become involved.

24 Q How were you going to avoid it if it was also  
25 your intention to attack Russia through Manchuria?

1       A    There was no idea whatsoever of striking  
2   against Russia -- or attacking Russia.

3       Q    But you have told me that in the event of  
4   war breaking out between Russia and Japan, it was  
5   the Japanese Army's intention to advance through Man-  
6   churia. How were you going, in that event, to avoid  
7   being involved in war with China if at the material  
8   time Manchuria was still part of China?

9       A    In case of attack, Manchuria was to undertake  
10   the defense of that territory; and on the basis of  
11   diplomatic relations -- and through diplomatic nego-  
12   tiations Japan was to participate in that defense.  
13   We had no idea whatsoever of bringing China into this  
14   war.

15           THE MONITOR: The first part, "In case of  
16   attack" should be "In case of attack by Russia."  
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Q    Wasn't the Japanese Army extremely anxious  
to detach Manchuria from China and assume control over  
it for the reason amongst others that it would be much  
more convenient in the event of war with Russia?

A    May I be permitted to express my idea? I  
have never thought at any time of waging war with  
Russia. Even during peacetime it has always been my  
thought that it would be a very great disadvantage to  
fight with Russia. Only in the event of an attack on  
the part of Russia against us, then we had intentions  
of borrowing territory from which to fight against  
Russia but I had never entertained any idea of using  
Manchuria as a route through which to attack Russia.  
The idea is fundamentally different.

Q    I am not concerned with the question who  
might attack in the first instance. What I am asking  
you was if it was not the idea of the Japanese Army  
that they would be in a much stronger position in the  
event of war with Russia if they were previously in  
occupation of Manchuria.

A    No.

Q    You think they wouldn't be. Now, do you  
remember entertaining at luncheon the heads of the  
South Manchuria Railway on the 30th of June 1931?

A    Yes, I do.

MINAMI

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1 Q This is exhibit 2202-A that I am now referring  
2 to. Did you have various military chiefs there?

3 A No.

4 Q Let me suggest to you the names from the  
5 report: KANAYA, Chief of the General Staff; wasn't  
6 he present?

7 A Yes, he was there.

8 Q SUGIYAMA and ITO?

9 A Yes, they were there.

10 Q NINOMIYA?

11 A Yes.

12 Q KOISO, the accused who was then Chief of the  
13 Military Affairs Bureau?

14 A Yes, he was there.

15 Q And TATEKAWA, Chief of the Second Section?

16 A Yes, he was there.

17 Q Then why did you say there were not various  
18 military chiefs there?

19 A This was all sort of a meeting of friends, so  
20 to speak. Every year when the president of the South  
21 Manchuria Railway and other officials of that company  
22 came up to Tokyo the president of the South Manchuria  
23 Railway invited various government departments which  
24 had any interest in Manchuria, namely, the War Ministry,  
25 the Foreign Office, the Ministry for Overseas Affairs.

MINAMI

CROSS

1 It was a purely social function to which we were  
2 invited to a luncheon and there discussed topics of  
3 the day. In return for that luncheon tendered by  
4 the president of the SMR the heads of the various  
5 ministries which were invited there gave luncheons  
6 and I as Minister of War would be a sponsor for one  
7 of the luncheons by way of returning the courtesy of  
8 the president of the South Manchuria Railway.

9 These meetings had no meaning whatsoever  
10 except that they were purely social functions and,  
11 inasmuch as the War Ministry issued the invitations  
12 to these parties, the Chief of the General Staff, the  
13 Vice Minister and others who were in the inner group  
14 were naturally in attendance at the luncheon. Being  
15 a purely social affair there was no serious discussion  
16 at any time. It was: "Hello, there. I haven't seen  
17 you for some time," and so forth. I did not even  
18 remember such a meeting but I recall it because my  
19 memory was -- my attention was called to it; otherwise  
20 I would have forgotten it entirely.

21 Q Was there an unofficial military councillors'  
22 conference on the same day?

23 A I do not know.

24 Q At some function on that day did you say this:  
25 "The army has long recognized the necessity of increasing

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CROSS

1 our divisions in Korea and we hope the day will come  
2 when more divisions will be dispatched there"?

3 A Well, I might have said something of that  
4 nature but it was the army's desire to increase its  
5 division strength in Korea and that desire had existed  
6 for a number of years, but after I entered the Cabinet  
7 as War Minister I found that the circumstances and the  
8 situation was entirely different. The government had  
9 no money, no funds, to make such a provision and on  
10 that basis I said that this couldn't be done. That,  
11 I think, I did say.

12 Q What you did say was that it had not been  
13 decided yet?

14 A Not only did I say that it was not decided  
15 yet, but as far as I was concerned I couldn't do it --  
16 Not only did I say that it was not decided yet, I said  
17 that it can't be done; and, of course, there was the  
18 voice from -- voices from Korea desiring the increase  
19 in divisional strength at Korea and on the part of the  
20 army the desire to increase the strength in Korea, but  
21 I issued a statement negating such desire both at home  
22 and abroad.

23 Q Do you know that that part of your statement,  
24 if you made it, didn't get into the report?

25 A There was no need of writing about it.

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1       Q I see. Well, now, what was the reason why  
2 the army wanted to increase its divisions in Korea?

3       A I don't know; however, there was a long-  
4 standing desire among the people in Korea in civilian  
5 circles and others to increase divisional strength  
6 there not only for purposes of defense, another, in  
7 order to promote the prosperity in that area, and  
8 these civilian circles even sent lobbyists to Tokyo  
9 to see that that desire was carried out. It was in  
10 order to quell and to erase such a fact, such desire,  
11 that I made my statement, public statement, saying  
12 that there will be no increase in division strength  
13 in Korea.

1 Q Now, in your speech on the 4th of August you  
2 said: "Manchuria and Mongolia are very closely  
3 related to our country from the viewpoint of their  
4 national defense." Why?

5 A In order to establish or to consolidate  
6 peace in the Orient, conditions in Manchuria and  
7 Mongolia must be stable, and I think you would have  
8 a precise answer from me to your question if you  
9 would permit me to speak on the meaning of the  
10 address that I delivered on the 4th of August.

11 There were three points in the address  
12 of instructions that I gave at the divisional com-  
13 manders conference. First was a reform of Japanese  
14 military installations. The second point was the  
15 education and training of soldiers and to carry out  
16 the **duties** of the soldiers. And the third was to  
17 issue instructions in view of the fact that the  
18 Manchurian questions were at that time rather serious.  
19 It happened that the situation -- the third point  
20 was instructions to the divisional commanders to be  
21 well acquainted with the situation both at home and  
22 abroad because at that time it happened that the  
23 Manchurian question was becoming serious.

24  
25 THE MONITOR: Slight correction. The third  
was an address of instructions to these commanders

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1 to be well acquainted with Manchurian problems  
2 because that question was becoming important at  
3 that time.

4 And so if the purpose of that address were  
5 made clear, then the general public misunderstanding  
6 and so forth would be cured.

7 The first point with respect to the reform  
8 and improvement of arms and installations for the  
9 army, the point was the mechanization of our armed  
10 forces by the use of tanks, armored cars, airplanes,  
11 and so forth. If these improvements could be  
12 carried out the number of divisions could even be  
13 reduced. Some of the various branches of the armed  
14 forces could be abandoned, but that such improvements  
15 need be made because Japan was behind the other world  
16 powers in point of military installations. However,  
17 when I became War Minister I found that the situation  
18 was quite different from what I had expected. The  
19 cabinet was continuing the policy of the previous  
20 HAMAGUCHI Cabinet. The total state budget was no  
21 more than 1,448,000,000 yen. That was the extent  
22 of the national budget. And the total budget in so  
23 far as the army was allotted was a mere 180,000,000  
24 yen. The WAKATSUKI Cabinet was continuing the same  
25 financial policy, and its stand was that it cannot

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support any program of increasing the army. In  
order to effect a reform and reorganization of the  
army and to mechanize the army within the scope of  
this very limited budget a number of branches in the  
army service had to be abolished. In order to  
bring about a reform in military armaments and  
installations within this highly limited budget it  
was necessary to cut down numerically the strength  
of the army; it was necessary to dispose, to dis-  
miss a number of the officers. It had to change  
and make readjustment in the various branches of  
the army service, with the result that it had  
every danger of causing a great deal of unrest among  
the people. Following the First World War general  
public opinion -- arms reduction was the voice of  
public opinion. And thus during the time I think  
it was -- and in Japan also, and I think this was  
in the time of War Minister YAMANASHI there was a  
reduction in the number of divisional districts and  
in numerical strength of the army. In other words,  
this was arms reduction. Then later, two or three  
years later, during the War Ministership of General  
UGAKI the Japanese Army was reduced by four divisions.  
Because there was one reduction after another, when  
I became War Minister and proposed the mechanization

1 of our forces with the accompanying reduction, the  
2 general opinion among officers and soldiers was,  
3 "Reduction again?"

4 THE PRESIDENT: I thought he was going to  
5 explain his speech of the 4th of August.

6 MR. COMYNS CARR: Yes, your Honor.

7 THE PRESIDENT: When are you going to  
8 reach the explanation?

9 THE WITNESS: I am in the midst of explain-  
10 ing, sir.

11 THE PRESIDENT: Are you coming back to his  
12 speech of the 1st of July, 1931? According to  
13 exhibit 2202-A, he said on that day: "We hope  
14 the day will come when more divisions will be  
15 dispatched to Korea."

16 MR. COMYNS CARR: Yes.

17 THE PRESIDENT: Why did he entertain those  
18 hopes?

19 THE WITNESS: I had the hope that if the  
20 national treasury permitted we would like to have  
21 done it.

22 THE PRESIDENT: What was the need?

23 MR. BROOKS: If the Tribunal please, the  
24 witness has answered that already. I think he  
25 answered that before and covered that, and I don't

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CROSS

1 know -- I think the prosecution may have left that  
2 too soon, but I would like for them to finish this  
3 logically and then come back to it.

4 THE PRESIDENT: Please don't interfere.  
5 It is no function of yours to interfere.

6 MR. BROOKS: I am defense counsel, your  
7 Honor.

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1       A   And therefore the first point of my  
2   address of instructions to the divisional commanders  
3   was that the reforms in the army, although there  
4   was anxiety lest the reform of the army organization  
5   would cause public unrest, the point that the army  
6   had in mind was that because of the acute situation  
7   of the national finance there was no other alternative,  
8   that this was the only course that was open.

9               Second point, and therefore I proceeded to  
10   my second point saying that in view of such a  
11   situation I wanted the divisional commanders to  
12   understand that their task was to devote their efforts  
13   to the education and training of their officers and  
14   men both physically and spiritually.

15               And my third point was that now that the  
16   Manchurian question was becoming -- I said that the  
17   Manchurian question was now becoming acute and serious.  
18   However, as far as the army was concerned, my  
19   instructions were that we must abide by the principles  
20   and instructions as set forth in the Imperial Rescript  
21   that the fighting services must not interfere in  
22   politics and that it must carry out the duties  
23   assigned to it without regard for -- without being  
24   influenced by public opinion or comments.

MINAMI

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1           Q   General MINAMI, one moment. I am very  
2           reluctant to try to stop you in any way, but may  
3           I point out that you do not help yourself or anybody  
4           else by making long speeches about matters about  
5           which you have not been asked.

6           MR. BROOKS: If the Tribunal please, I  
7           wish to object to the prosecution trying to stop  
8           the witness. If he wants the truth, the witness  
9           can tell his entire story. I would like him to  
10           try to explain what he meant and be heard fully.

11           THE PRESIDENT: He is entitled to answer  
12           and then explain. First let him answer. He is  
13           not doing so.

14           Q   General MINAMI, wasn't the real reason why  
15           you hoped that more divisions would be sent to  
16           Korea was that you wanted to strengthen the Army  
17           there in order that it might help the Kwantung Army  
18           in Manchuria as it afterwards did?

19           A   No.

20           MR. COMYNS CARR: Your Honor, now I will  
21           pass from those two speeches. The exhibit numbers of  
22           the speeches of the 4th of August are 186 put in by  
23           the prosecution and 2393 put in by the defense, two  
24           different newspaper reports.

MINAMI

CROSS

1           Q   Did Baron SHIDEHARA, the Foreign Minister,  
2   keep you informed from time to time of the reports  
3   that he was receiving from the counsuls in Manchuria  
4   and China?

5           A   Yes.

6           Q   Did he inform you shortly before the 18th  
7   of September 1931 that he had received a report to the  
8   effect that the Kwantung Army was plotting some kind  
9   of big incident?

10          A   Yes, at a cabinet meeting he said that some-  
11   thing seemed to be going on.

12          Q   And did you promise to try to put a stop to  
13   it?

14          A   I said I will have the matter investigated.  
15   Otherwise I couldn't believe it.

16          Q   Did you send General TATEKAWA to Mukden  
17   for that purpose?

18          A   Major General TATEKAWA was a division chief  
19   of the Army General Staff Headquarters, and he was sent  
20   by the orders of the General Staff.

21          Q   At your request?

22          A   Inasmuch as the Chief of the Army General  
23   Staff was despatching Major General TATEKAWA to Man-  
24   churia, I met with General TATEKAWA and talked over  
25   the matter with him.

MINAMI

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1 Q Did you suggest to the Chief of Staff that he  
2 was the best man to send?

3 A No.

4 Q Do you know whether General KOISO suggested  
5 him?

6 A I do not know.

7 Q Do you know that both General KOISO and General  
8 TATEKAWA were supporters of the idea of creating an  
9 incident in Manchuria?

10 A I think they were interested in Manchurian  
11 problems, but I do not know anything so concrete as  
12 that they supported anything of that kind.

13 Q Do you know that General TATEKAWA arrived  
14 in Mukden in time to deliver the order, but failed to  
15 deliver it?

16 A I received the report from him after he  
17 returned to Tokyo --

18 MR. BROOKS: If the Tribunal please, I would  
19 like for the prosecution --

20 A (Continuing) that he was unable to communicate  
21 the order.

22 MR. BROOKS: If the Tribunal please, I would  
23 like for the prosecution to specify what order he is  
24 talking about.

25 THE PRESIDENT: We know, if the accused does

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1 not and if you don't, but you can remind him.

2 Q Was any order sent by the hand of General  
3 TATEKAWA?

4 A No.

5 Q Was the letter --

6 THE MONITOR: Just a moment. Hold it.

7 Yes, I asked General TATEKAWA to investigate  
8 into the situation in Manchuria in the light of the  
9 discussion that we had at the cabinet meeting, of which  
10 I informed him, and also in the light of the desire of  
11 the War Ministry, as I told him.

12 THE PRESIDENT: We will recess for fifteen  
13 minutes.

14 (Whereupon, at 1445, a recess was  
15 taken until 1500, after which the proceedings  
16 were resumed as follows:)

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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Carr.

4 MR. BROOKS: If the Court please, the prosecu-  
5 tor informed me he referred to an Imperial Order. I  
6 request that the order referred to be identified. It  
7 isn't an exhibit and I do not want anyone to be misled.  
8 The Court may know about the order referred to but I,  
9 as defense counsel, cannot identify it.

10 MR. CARR: Your Honor, in my submission it  
11 would be time enough for the point to be raised when  
12 questions have been asked about it and not before.

13 MR. BROOKS: If your Honor please, questions  
14 have been asked about an order. There was also an  
15 order of investigation and I thought that that was what  
16 he was referring to.

17 THE PRESIDENT: I have a note from a colleague  
18 which covers the position as I see it. MINAMI knew  
19 what was meant because he said General TATEKAWA told  
20 him he hadn't delivered the order.

21 MR. BROOKS: We can still clear up what he  
22 was talking about on redirect.

23 THE PRESIDENT: You are entitled to interfere  
24 to protect the client in proper cases, or the witness,  
25 but this witness does not need your protection because

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1 he understands what is being said to him.

2 Mr. Carr.

3 BY MR. COMYN<sup>S</sup> CARR (Continued):

4 Q Did not TATEKAWA take with him an order from  
5 you to stop the outbreak of any incident at all costs?

6 A No, that he did not do.

7 Q Was not that an order which you had received  
8 from the Emperor?

9 A No, that is not so.

10 Q Did TATEKAWA take with him a letter?

11 A I didn't hand him one.

12 Q Do you say that you had nothing to do with the  
13 selection of TATEKAWA as the person to be sent?

14 A That I do say. He was selected by the chief  
15 of the army general staff.

16 Q Do you know whether KOISO recommended him as  
17 the person to be sent?

18 A I do not know.

19 Q Do you know whether he carried with him any  
20 letter from anybody?

21 A I don't. I have never heard.

22 Q Now I want to go back a little in order of  
23 date. On the 24th of August, 1931, did you have a  
24 discussion with Railway Minister EGI?

25 A Discussion about what?

MINAMI

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1 Q I should have said the 23rd of August. About  
2 sending an expedition to Manchuria and Mongolia.

3 THE MONITOR: Mr. Prosecutor, what do you  
4 mean by "expedition"? What do you mean by "expedition"?  
5 Is that a military one?

6 MR. COMYNS CARR: Yes, a military expedition.

7 A No.

8 Q Did EGI say to you that it was outrageous  
9 to speak of such a thing?

10 A No, I have no recollection of that kind.

11 Q Did he what that it would be unthinkable to  
12 move the troops without an Imperial order?

13 A I don't recall.

14 Q On the 4th of September or shortly before that  
15 date did you have a discussion with Finance Minister  
16 INOUE?

17 A I have had -- I have frequently discussed  
18 matters with Finance Minister INOUE but I don't remember  
19 the dates.

20 Q About the army reorganization plan that you  
21 have been talking about?

22 A Yes, I have frequently discussed matters with  
23 Finance Minister INOUE including the reform -- the  
24 reorganization or reform of the army.

25 Q Had you before the 4th of September agreed

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1 with him upon that plan?

2 A Generally, yes.

3 Q But on or about that day did you tell him  
4 that you had been severly criticized by KOISO for  
5 having made that agreement and you must withdraw from  
6 it?

7 A No, that is not in my recollection at all.

8 Q Now, did Baron SHIDEHARA show you a telegram,  
9 which is exhibit 181, which he had received from  
10 Consul-General HAYASHI at Mukden?

11 A I did not see the telegram itself but I do  
12 recall Baron SHIDEHARA telling me that the army move-  
13 ments around Mukden were not just right. And so when  
14 TATEKAWA was to be dispatched to Manchuria I told him  
15 that SHIDEHARA had said such and such a thing and,  
16 therefore, I instructed him to see Consul HAYASHI and  
17 investigate into the matter.

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1                   Q    That was a report before the 18th of  
2 September. I am now asking you about one the morning  
3 afterwards.

4                   MR. BROOKS: If your Honor please, may the  
5 witness be shown the exhibit 181 where there could  
6 be no chance of mistakes as to who the telegram is  
7 referring to.

8                   THE PRESIDENT: I understood him to say he  
9 didn't see any telegram. Baron SHIDEHARA mentioned  
10 the matter to him.

11                  Q    Did Baron SHIDEHARA tell you that according  
12 to HAYASHI the Kwantung Army was planning to start  
13 positive operations simultaneously throughout the  
14 various places along the Manchurian Railway zone?

15                  A    I think that requires an explanation. Now,  
16 my explanation is this: That when we met at the  
17 Cabinet meeting we were discussing matters in a  
18 more or less informal round-table fashion, and Baron  
19 SHIDEHARA said that he had received a report from  
20 Consul General HAYASHI in Mukden saying that such  
21 and such a thing seemed to be going on, and then  
22 SHIDEHARA asked "Now, what do you think about it," and  
23 I said that I had received no report to any such effect.  
24 That was all. It just was an informal discussion  
25 generally, and SHIDEHARA did not show me any telegram

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1 saying "Did you see this" or "Did you see that," and  
2 "What do you think of it?"

3 Q I am not asking you what he showed you in  
4 a telegram. I am asking whether he told you that  
5 HAYASHI had reported as I read.

6 A No.

7 Q Did he tell you that he had received a  
8 report from HAYASHI on the same day, in the morning,  
9 that HAYASHI had come to the conclusion, considering  
10 all the facts, that the recent Incident was wholly  
11 an action planned by the army?

12 A SHIDEHARA did not say that.

13 Q HAYASHI had reported that TATEKAWA had  
14 arrived in Mukden by the one o'clock train, one  
15 o'clock midday on the 18th of September. Did he  
16 tell you that?

17 A No.

18 Q Did he tell you that the army authorities  
19 were keeping TATEKAWA's arrival secret?

20 A No, he did not.

21 Q If they were, can you suggest any legitimate  
22 reason why they should?

23 A I don't think there is any.

24 Q Did he tell you that according to the  
25 Director of the South Manchurian Railway the Kwantung

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1 army had prevented their workmen from going near  
2 the spot where the track was alleged to have been  
3 damaged to repair it?

4 A I don't remember anything of the kind.

5 Q Did you ever personally make any investigation  
6 to find out who had blown up that railway, if any-  
7 body?

8 A I did not personally go to Manchuria, but  
9 I sent the Chief of the Military Service Section  
10 of the War Ministry to make the investigation and  
11 sent him to Manchuria for that purpose.

12 Q Who was that?

13 A ANDO, Rikichi.

14 Q Where is he?

15 A He is probably dead now. He was until  
16 recently Commander in Taiwan, that is, Formosa.

17 Q Is this statement of Baron WAKATSUKI in  
18 exhibit 162 correct? This is prosecution document  
19 No. 11528, the last paragraph on the first page of  
20 the English text; the fifth paragraph of the whole  
21 thing:

22 "At this time it was the unanimous sense of  
23 the Cabinet that these operations in Manchuria must  
24 cease immediately and the aforesaid War Minister  
25 General MINAMI agreed to put this Cabinet policy into

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1 effect with the Army at once. However, day after  
2 day expansion continued and I, the Prime Minister,  
3 had various conferences with the aforesaid War Minister,  
4 General MINAMI. I was shown maps daily on which the  
5 aforesaid General MINAMI would show by a line a  
6 boundary which the Army in Manchuria would not go  
7 beyond and almost daily this boundary line was  
8 ignored and further expansion was reported but  
9 always with assurances that this was the final move. "

10 Is that right?

11 A Yes, that is true.

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1        Q    Now, when you were interrogated, exhibit  
2        2207, prosecution document 1869, did you say this,  
3        the bottom of page 1 of the English exhibit:

4        "Q    You had given General HONJO blanket  
5        authority to take any action he saw fit in  
6        Manchuria just prior to the Mukden Incident?

7        "A    No. The Commander-in-Chief of the  
8        Kwantung Army has this privilege and has had it  
9        for over twenty-five years.

10       "Q    Then he could take any warlike steps he  
11       wanted over there under the prerogative of su-  
12       preme command?

13       "A    Within the jurisdiction of his own area  
14       he can do practically anything he wishes."

15       Did you say that?

16       A    Yes.

17       Q    Was it true?

18       A    Yes.

19       Q    Then, if he could do what he liked, what was  
20       the good of your promising the cabinet to stop him?

21       A    That is different. There should be in that  
22       interrogatory -- in my reply in that interrogatory,  
23       that "within the scope of his official authority."  
24       If you see that, you will understand quite well his  
25       authority cannot extend beyond that. He can't do

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1 anything beyond that.

2 Q Then you could have stopped him if you  
3 wanted to?

4 A Yes.

5 Q Why didn't you?

6 A Because I couldn't. The military situation  
7 did not permit.

8 Q Then, did you not stop him because you  
9 approved of what he was doing?

10 A No.

11 Q What do you mean by "no," that you did not  
12 approve or that you did not stop him because you did  
13 approve?

14 A The commanding general of the Kwantung Army  
15 acted in accordance with the orders of the Central  
16 Army authorities in so far as it was possible. How-  
17 ever, because the enemy was so large in number and  
18 because they frequently made surprise attacks on us,  
19 a situation was created wherein there was no other --  
20 there could be nothing else but expansion -- or ex-  
21 tension of the hostilities.

22 Q Then the answer is that you did approve of  
23 what he did, is it?

24 A We recognized the fact that it was done un-  
25 avoidably in view of the situation in the army -- in

MINAMI

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1 anything beyond that.

2 Q Then you could have stopped him if you  
3 wanted to?

4 A Yes.

5 Q Why didn't you?

6 A Because I couldn't. The military situation  
7 did not permit.

8 Q Then, did you not stop him because you  
9 approved of what he was doing?

10 A No.

11 Q What do you mean by "no," that you did not  
12 approve or that you did not stop him because you did  
13 approve?

14 A The commanding general of the Kwantung Army  
15 acted in accordance with the orders of the Central  
16 Army authorities in so far as it was possible. How-  
17 ever, because the enemy was so large in number and  
18 because they frequently made surprise attacks on us,  
19 a situation was created wherein there was no other --  
20 there could be nothing else but expansion -- or ex-  
21 tension of the hostilities.

22 Q Then the answer is that you did approve of  
23 what he did, is it?

24 A We recognized the fact that it was done un-  
25 avoidably in view of the situation in the army -- in

1 the enemy camp.  
2 Q Then, when you told the cabinet that you  
3 were going to stop him, were you insincere?

4 A Yes, I spoke with sincerity.

5 (Whereupon, a reinterpretation of  
6 the question was made.)

7 A (Continuing) No, not that at all. I  
8 exerted my utmost.

9 Q To do what?

10 A In order, as much as possible, to have the  
11 Kwantung Army Commanding General follow the policy  
12 of non-expansion and non-aggravation. To state  
13 this more concretely, the Kwantung Army was ordered  
14 to protect the lines of the South Manchuria Railway  
15 and other important positions along that line. But  
16 it was not to go north beyond Kirin, Changchun, or  
17 Chengchiatun, not to go west of the Liao-ho.

18 Q Is that all?

19 A That is all.

20 Q Now, do you say that, for instance, the  
21 occupation of Chinchow was necessary because of  
22 attacks made upon your forces by the Chinese?

23 A The attack on Chinchow was never carried out  
24 in my time.

25 Q I am now going to read you the report of

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1 what you told the Privy Council on the 9th of De-  
2 cember, 1931, four days before you resigned; ex-  
3 hibit 2205A.

4 MR. BROOKS: If the Court please, the prose-  
5 cution has referred to a document on the 9th of  
6 December, four days before he resigned. As I under-  
7 stand, it was the prosecution's own exhibit, and it  
8 shows MINAMI resigned the 10th of December.

9 MR. COMYNS CARR: No, the 13th.

10 MR. BROOKS: The 10th.

11 MR. COMYNS CARR: The 13th.

12 Q (Continuing) I am reading the first para-  
13 graph after the names:

14 "(WAR MINISTER MINAMI): I shall now report  
15 on conditions in the Chinchow district. In the con-  
16 centration of an army, it is a principle in military  
17 tactics to send one unit ahead. Now, as you know,  
18 our forces were distributed over Tsitsihar, Ssuping-  
19 kai, and other places. So, in order to concentrate  
20 them, one unit was sent to the Chinchow district.  
21 Accordingly, an order was issued commanding all units  
22 in the said area to receive instructions from the  
23 commander of the above force in all their operations  
24 and following this an order was issued at 12:40 P.M.  
25 on the 27th November that the unit should return to

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1 a position east of Hsin-Min-Tun. Incidentally, inform-  
2 ation to the effect that, if Japan so demanded, the  
3 Chinese would evacuate Chinchor, came into our hands.  
4 Thus there was no necessity for any strong offensive  
5 action. Perhaps this might have led to the report  
6 which appeared in the newspapers, etc., to the ef-  
7 fect that the Chief of Staff, the Minister of War,  
8 and the Minister of Foreign Affairs had come to an  
9 agreement that the attack on Chinchor should not be  
10 carried out."

11 So you knew every detail of the plans for  
12 the attack on Chinchor before it happened, didn't  
13 you?

14 A No, not so. Having heard that a part of  
15 the Kwantung Army had gone near Chinchor, I said  
16 that this was intolerable, and this unit must be  
17 withdrawn.

18 Q Was it true, as you told the Privy Council,  
19 that the Chinese would evacuate Chinchor and let  
20 you occupy it, and, therefore, there was no need  
21 for strong military action?

22 A Yes, when I heard from Foreign Minister  
23 SHIDEHARA they were at such a stage as a result of  
24 negotiations between the Japanese Government and the  
25 Central Government of China. But, when I made my

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1 report to the Privy Council, the two governments were  
2 only in the midst of the negotiations.

3 Q And you are telling the Privy Council,  
4 aren't you, that the newspaper reports that there  
5 would be no attack on Chinchow were untrue?

6 A I have absolutely no recollection of having  
7 said anything of that kind because I am the author  
8 of the proposal that we must not attack Chinchow;  
9 and upon that idea I requested the Chief of the  
10 Army General Staff to withdraw advance near Chinchow.

11 Q But only because you knew that the Chinese  
12 were prepared to surrender it without fighting.

13 A The primary reason was that our foreign  
14 minister, through negotiations with the foreign  
15 minister of the Central Government of China, desired  
16 to seek a peaceful solution to the question and to  
17 withdraw the army under peaceful conditions.

18 Q What right had you to occupy Chinchow at  
19 all?

20 A As I have said before, my policy was not to  
21 occupy Chinchow whatsoever, and, therefore, the in-  
22 struction was sent out that the army should not ad-  
23 vance west of the Liao-ho River, as I answered be-  
24 fore. Therefore, that question seems quite strange  
25 to me.

1                   Q Now, let's see how Councillor EGI under-  
2                   stood what you had been telling the Privy Council.  
3                   Immediately following what I have read, this is  
4                   what he said:

5                   "Although I think it is reasonable that  
6                   attack should be made under some pretext on Chinchow  
7                   where Chang Hsueh-liang has his headquarters, but  
8                   great will be our loss of credit with the League of  
9                   Nations and the great powers. Though it might be  
10                   very convenient for Japan to have Manchoukuo an in-  
11                   dependent state, I do not believe the great powers  
12                   would accept it. It might be well for Manchurian  
13                   people to work for their independence on their own  
14                   accord, but are we not losing general confidence as  
15                   a result of continually taking action under the pre-  
16                   text of self-defense?"

17                   A Yes, I think that is as a matter of course.

18                   Q I don't quite follow what you mean. Do  
19                   you agree that the self-defense was merely a pretext,  
20                   as Councillor EGI said?

21                   THE MONITOR: The witness said "yes," and  
22                   he followed up, "I didn't mean that. I said that  
23                   the question of Privy Councillor EGI was most  
24                   natural.

25                   Q Well, now, would you mind answering the

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1 question, then: Do you agree with Councillor EGI  
2 that, when you spoke about self-defense, it was only  
3 a pretext?

4 A No, I don't.

5 Q Then why didn't you tell him he was quite  
6 wrong?

7 A I may have said so, but I don't know what  
8 kind of remarks were exchanged then.

9 Q Well, the minutes show that what you said  
10 was this: "We do not wish to give the impression to  
11 foreign countries that we have attacked Manchuria and  
12 Mongolia." What did you mean by that?

13 A Exactly as I said.

14 Q That's why you used the pretext of self-  
15 defense, wasn't it?

16 A No, not at all.

17 Q Well, then, how else could you avoid giving  
18 the impression to foreign countries that you would  
19 attack Manchuria and Mongolia?

20 A Well, now, I have never at any time attempted  
21 or engaged in artifice of any kind to try to fool  
22 anybody. But my personal conviction and that of  
23 my cabinet fellows was to see Manchuria become a  
24 stabilized area. That was all.

25 Q And the next councillor who asked a question

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1 was Councillor SAKURAI. He says: "After our planes  
2 bombed Chinchow, our country quickly lost the con-  
3 fidence of the League of Nations which is certainly  
4 a matter of regret. Must we all regard this loss  
5 as inevitable?"

6 Do you remember what you answered to that  
7 one?

8 A I do not.

9 Q Let me read it to you. You said: "I, too,  
10 consider it regrettable. However, apparently,  
11 Europeans and Americans are mistaken in thinking  
12 that we made use of large bombs such as used in the  
13 European War. Moreover, the contrast between this  
14 incident and the frequent government announcements  
15 that the affair would be extended has caused a strong  
16 reaction amongst them."

17 THE PRESIDENT: It is now four o'clock.

18 Do you wish to complete this part?

19 MR. COMYNS CARR: Just one question on that,  
20 your Honor.

22 Q (Continuing) There was, was there not, a  
23 very strong contrast between your statements and  
24 your actions throughout this matter?

25 A I do not think there is any contrast.

THE PRESIDENT: We will adjourn until half-

1 past nine on Monday morning.

2 (Whereupon, at 1600, an adjourn-  
3 ment was taken until Monday, 14 April,  
4 1947 at 0930.)

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